

REMARKS

In the action dated January 6, 2005, the Examiner has rejected Claims 1-24 under 35 U.S.C. § 1.03(a) as being unpatentable over *Fichou et al.*, United States Patent Number 5,790,522. That rejection is respectfully traversed.

As noted by the Examiner, *Fichou et al.* disclose a method and system for controlling traffic congestion in a data communication network. Data is transmitted between nodes which include a switch fabric for switching the network data between receive adapters connected to network node input lines and transmit adapters connected to network node output lines. The switch fabric includes a switch congestion condition detector and a back-pressure signal generator. The receive adapters include routing means for routing received data into different queues based on priority levels and for routing the queue data selectively at a predefined adaptor speed through the switch.

As noted by the Examiner, each adaptor switch defines a period of time for pausing transmission, as described at col. 8, lines 2-8. However, as expressly set forth at col. 8, lines 12 *et seq* there are only two timer values T1 and T2. *Fichou et al.* expressly set forth "timer value T1 is used where an NRT packet is being transmitted when congestion is detected. Timer value T2 is used where an NR packet is being transmitted when congestion is detected." Thus, as expressly set forth by *Fichou et al.*, the time period for pausing a transmission is one of two fixed time values which are determined based upon the particular type of packet which is being transmitted when congestion is detected and not based upon input buffer capacity. Applicant respectfully urges that selecting one of two predetermined timer values for transmission based upon whether an NRT packet or an NR packet is being transmitted cannot be said to show or suggest in any way the actual computation of a delay interval based upon input buffer occupancy, as expressly set forth within the claims of the present application and, consequently, Applicant respectfully urges the Examiner to consider that *Fichou et al.* cannot be said to show or suggest the computation of a delay interval based upon the input buffer occupancy, as set forth expressly within these claims.

In recognition of the failure of *Fichou et al.* to expressly disclose that the time period is computed based upon monitored input queue sizes the Examiner points out that it would have

been obvious to one having ordinary skill in the art to be motivated to use queue size, believing that such a calculation would indicate how close a queue is to maximum capacity. Indeed, the Examiner points out that *Fichou et al.* monitors switch input queue sizes so as to compare them certain thresholds, citing col. 9, lines 53-58.

However, a careful examination of col. 9, lines 53-58 reveals that the monitoring of input queue sizes is utilized to enable and disable spacing between data packets. That is, transmission of data packets at 430Mbps or 63Mbps. Again, Applicant respectfully urges that the express teaching within *Fichou et al.* of the monitoring of input of queue sizes to select between two transmission speeds is directly contrary to the computation of a delay interval based upon input buffer capacity and the delaying of the restart of data transmission in accordance with that computed delay interval.

In summary, *Fichou et al.* expressly teaches that one of two predetermined delay intervals is utilized to stop transmission if congestion occurs. Specifically, a first timer value is selected if an NRT packet is detected when congestion occurs and a second timer value is utilized if an NR packet is detected when congestion is detected. Additionally, the monitoring of input queue size is expressly taught within *Fichou et al.* for a determination of whether or not a first data rate or a second data rate should be utilized. *Fichou et al.* is absolutely without the slightest suggestion for pausing data transmission from an input section to an output section for a computed delay interval based upon input buffer occupancy and thereafter restarting data transmission from the input section to the output section in accordance with that computed delay interval, as expressly set forth within the current claims. It is well settled that a reference which teaches away from a claimed invention cannot be said to suggest that invention and consequently, Applicant urges the withdrawal of the Examiner's rejection of claims 1-24 over *Fichou et al.* as Applicant believes that rejection is not well founded and should not be sustained.

The Examiner has also rejected claim 25 under 35 U.S.C. § 1.03(a) as being unpatentable over *Fichou et al.* as applied to claims 1-24 and further review of *Ljungberg et al.*, United States Patent Number 5,493,566. That rejection is also respectfully traversed.

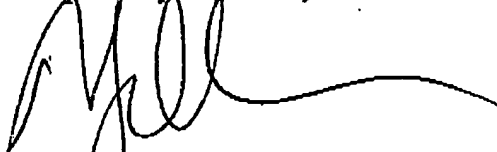
Fichou et al. is discussed above. *Ljungberg et al.* is cited by the Examiner for its teaching of a system for controlling the flow of data cells through a packet switch which throttles

traffic coming from input buffers in response to the output buffers reaching a threshold value. Applicant respectfully urges that the ceasing of transmission in response to a selected level being reached in an output buffer cannot be said to be suggestive of the claimed invention set forth within claim 25 wherein a delay interval is computed based upon a determined input buffer occupancy and data transmission is controlled in accordance with that computed delay interval. *Ljungberg et al.* fails to show or suggest in any way the computation of a delay interval and merely teaches the cessation of data transmission when the output buffers exceed a predetermined level of content. Thereafter, if level in the output buffers falls below that predetermined level transmission is restarted, without regard to a computed delay interval. Consequently, and for the reasons set forth above with respect to *Fichou et al.*, Applicant urges that the Examiner's rejection to claim 25 as unpatentable over *Fichou et al.* in view of *Ljungberg et al.* is not well founded and withdrawal of this rejection is also respectfully requested.

CONCLUSION

No additional fee is believed to be required; however, in the event any additional fees are required, please charge IBM Corporation Deposit Account No. 50-0563. No extension of time is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time to IBM Corporation Deposit Account No. 50-0563.

Respectfully submitted,



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